

# Utah State Building Board



## MEETING

December 4, 2002

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## **MINUTES**

### **Utah State Building Board Members in attendance:**

Keith Stepan, Chair  
Larry Jardine  
Haze Hunter  
Kerry Casaday  
Manuel Torres

### **DFCM and Guests in attendance:**

Joseph A. Jenkins	Division of Facilities Construction & Management
Kenneth Nye	Division of Facilities Construction & Management
Shannon Lofgreen	Division of Facilities Construction & Management
Francis X. Lilly	Division of Facilities Construction & Management
Alan Bachman	Attorney General Office/DFCM
Camille Anthony	Department of Administrative Services
Kevin Walthers	Legislative Fiscal Analyst's Office
Randa Bezzant	Governor's Office of Planning and Budget
Dennis Geary	College of Eastern Utah
Brent Windley	Utah State University
Darrell Hart	Utah State University
Michael Raddon	Spectrum + Bennion
LTC Craig V. Morgan	Utah National Guard
Rep. Loraine T. Pace	Legislature
Mark Spencer	Board of Regents
Mike Perez	University of Utah
John W. Huish	University of Utah
Pieter J. van der Have	University of Utah
Gary Adams	Department of Workforce Services
Marlo Wilcox	Department of Workforce Services
RoLynne Christensen	VCBO Architecture
Greg Stauffer	Southern Utah University
Robert Clark	Utah Valley State College
Bob Askerlund	Salt Lake Community College

E. Bart Hopkin  
Lynn A. Samsel  
Greg Peay  
Mike Benson

Department of Human Services  
Department of Human Services  
Department of Corrections  
Snow College

On Wednesday, December 4, 2002, the Utah State Building Board held a regularly scheduled meeting at the Utah State Capitol, Committee Room 129, Salt Lake City, Utah. Chair Keith Stepan called the meeting to order at 9:00 am.

☐ **APPROVAL OF MINUTES OF NOVEMBER 6, 2002 .....**

Chair Stepan sought a motion on the Building Board minutes of November 6, 2002 and noted the comments regarding the vacancy on the Building Board. Joseph Jenkins indicated an individual had been selected to serve on the Board and expected to have them present at the next meeting.

**MOTION: Manuel Torres moved to accept the minutes of November 6, 2002. The motion was seconded by Larry Jardine and passed unanimously.**

☐ **LEGISLATIVE ISSUES .....**

Chair Stepan expressed congratulations to Representative Loraine Pace for being designated as the co-chair of the Capital Facilities Subcommittee.

Kenneth Nye indicated that at least one piece of Legislation involving the Building Ownership Authority would have a significant impact on the Building Board and DFCM. A few years ago, legislation was proposed to change the membership of the Building Ownership Authority from its current status, which is the Building Board members also making up the Building Ownership Authority. The previously proposed legislation directed the Bonding Commission to fulfill that role and would therefore consist of the Governor, the State Treasurer, and a private third party. Recent discussions have indicated an additional desire for changes in the make-up of the Ownership Authority to consist of the Governor, the State Treasurer, and the Chair of the State Building Board. DFCM felt this proposal would provide a lot of strength to the Ownership Authority as the State Treasurer is responsible for the financing issues for the State and would place them directly on the Board. Having the Governor involved may provide added weight and credibility to the Board in the sense that he would be directly approving documents. Retaining the Building Board Chair would provide the knowledge and expertise, as well as the input from DFCM in dealing with the property, real estate, and construction issues. The legislation was presented to an interim committee in November and appears to be moving forward.

Kenneth Nye stated other statutes allow the Governor to have the Lieutenant Governor fill in for any board assignment he may have. It would be highly likely that the Lieutenant Governor would directly serve on that Board. The three member Board would serve as the chair, vice-chair and secretary between the three officers.

Another item of legislation currently going through an interim review dealt with the Armory Board in attempt to make some minor adjustments in the authority of the Armory Board when dealing with property transactions. DFCM has had some ongoing discussions with the Guard in attempt to clarify other inconsistencies between the DFCM and Building Board statutes compared to the Armory Board statute. The Chair of the Building Board will continue to serve as a member of the Armory Board to provide the needed continuity.

Kenneth Nye stated a special session will be happening later this month, and did not anticipate any reductions to capital project funding to be included. The special session was anticipated to last three days, if needed.

Kenneth Nye also indicated the Governor's budget would be released on approximately Monday, December 16, 2002.

**☐ POTENTIAL FOR PHASED FUNDING .....**

Joseph Jenkins stated Manuel Torres had previously expressed some good ideas regarding phased funding. Mr. Jenkins wished to explore these options further as they varied from past definitions and anticipated scheduling a meeting to further discuss the ideas.

**☐ LOGAN REGIONAL CENTER .....**

Joseph Jenkins reported that when the Board did their prioritizations of non-state funded projects in October, there were regional centers proposed in Ogden and St. George, as well as a Department of Workforce Services building in Logan. The Board had since requested a report regarding the possibility of a Logan Regional Center.

Since then, discussions have been held regarding combining the DWS building with the remaining facilities in Logan to develop a regional center and the potential of a situation with state funds versus federal funds. Upon further investigation, DFCM discovered they could consolidate a building and have DWS occupy half of the building with the rest of the state agencies in another half in order to resolve the problems with intermingling state and federal funds. DFCM determined that if they built a Department of Workforce Services building and not a state building, they would lose a lot of the impetus needed for a regional center in Logan. After reviewing the state agencies in Cache County, it appeared this could

be completed now as all existing leases are going to expire in 2006 with one in 2007. Several agencies have expressed interest in participating in the new 50,000sf building. The debt service and O&M costs are projected to be \$105,000 higher than the cost of the leases as they expire in 2006, but it is expected that a similar increase would happen if we continue to lease.

DFCM determined completing the Ogden and St. George centers together would result in an approximate 10% cost savings. There is another approximate 3% savings from including the Logan center and building them together. Normally more could be saved, but the buildings are not optimally located. Some economy savings could result in the design fees by designing them at one time. Both the Logan and St. George buildings are approximately 50,000sf and the Ogden building would be approximately 80,000sf. DFCM would save approximately 3% on design costs and purchasing the commodities.

Mr. Jenkins further explained that by doing the buildings right now, they are about 15-17% below the cost of building the buildings three years ago and all three buildings would be lease revenue bonds. DFCM felt this was a sensible plan as it would not take up bonding capacity for the state in General Obligation bonds, would help obtain the building while costs were lower, and keep them helping the economy of the State of Utah by building more buildings. Mr. Jenkins stated they would hire one contractor and design firm. These projects would be done through the Value Based System.

Mr. Jenkins explained St. George will not include the Department of Workforce Services as they are currently located in a building that meets their needs and the available space would not provide enough space to be included. DFCM is currently evaluating other sites to determine if there is a better location.

DFCM wanted to inform the Board of the situation and asked them to take action on how to proceed. The Board has the option to combine the Logan Regional Center with Workforce Services on the current prioritization list; continuing proceeding with the Ogden and St. George Regional Center and see what happens in the Legislature; revisit the priority list and insert the Logan Regional Center, either as an additional project; or potentially combine the three Regional centers as one project and list them individually under the one project.

**MOTION: Haze Hunter moved to proceed with placing all three regional centers as one package on the priority settings list. The motion was seconded by Manuel Torres.**

Manuel Torres indicated the priority list identified St. George as number seven and Ogden as number eight. Kenneth Nye clarified that in keeping with Lynne Ward's request, it would be appropriate to combine them as a number seven priority, but identify them separately.

**MOTION:** Haze Hunter amended his motion to include the projects as priority seven. The amendment was seconded by Manuel Torres. The motion passed with one abstention.

❑ **HIGHER EDUCATION OPERATIONS AND MAINTENANCE COST REQUESTS**

In the October priority settings, a number of concerns were raised regarding the amount of funding requested by primarily Higher Education institutions for operations and maintenance associated with new projects. At that meeting, the Board asked DFCM and Higher Education to work together to further analyze the O&M requests and return with a report. DFCM has done a fair amount of analysis primarily focusing on trying to arrive at a similar comparison of the O&M costs at each campus.

Kenneth Nye referenced a table identifying average O&M costs per square foot for each campus. There was some additional discussion regarding O&M increases and the amounts needed when space is not increased, as well as an idea of changing the approach for considering O&M for projects to include a percentage of the project cost as opposed to a standard cost per square foot.

At this time, DFCM was uncomfortable with making a recommendation as they did not feel the analysis had progressed enough to recommend the O&M request validity. DFCM has worked with the Higher Education institutions in an attempt to standardize O&M cost inclusions, however, the amounts still range from \$3.85/foot to \$6.35/foot, which is too broad for consistency. DFCM continued to struggle with arriving at an appropriate comparison, but beyond that, the primary questions raised regarded O&M requests dealing with the increases in O&M requested for projects not resulting in an increase in space. The institution would have the same amount of space to maintain, but would ask for increases in the budget for maintenance. The dialogue DFCM has previously had with Higher Education on that issue does not have much detailed analysis completed regarding an appropriate increase amount. For that reason, DFCM's recommendation to the Board is to include the amounts requested by each of the institutions in the five-year book without giving an endorsement to the amount. DFCM will continue to work with Higher Education to fine tune the O&M analysis.

Chair Stepan stated the five year building program included amounts listed and appeared to be an endorsement of the costs by the Board. He thought the proposal to list them separately as part of the five year plan was sensible, rather than trying to find an average or more similar comparison.

Kenneth Nye stated DFCM was attempting to achieve a target average cost or a range of costs for different types of space in the discussions with Higher Education due to the cost

of operating different types of buildings varying greatly.

Chair Stepan felt it would be good to have some targets, especially for year to year increases in future terms and give the Board a base to evaluate the requests. Joseph Jenkins agreed and felt discussions showed several unknown anomalies. Mr. Jenkins felt DFCM and Higher Education needed to further develop guidelines and standards.

Chair Stepan asked about the conditional needs assessment efforts. Joseph Jenkins responded that DFCM has conditional needs assessments completed at about 80% - 85%, as expected. There are some buildings that are not sensible to complete and DFCM is now beginning the third phase on some of the buildings. DFCM is continuing to place the Facility Focus programs online, which will enable the Building Board to compare the current status of every facility in the State of Utah in terms of O&M and the status of capital improvement issues. DFCM anticipates this will occur in approximately six months and will continuously work on getting all projects on line immediately afterwards. This will aid in establishing guidelines and standards.

Mark Spencer, Utah System of Higher Education, commented they are getting closer to developing a similar comparison for existing O&M, although the ranges vary greatly. These are very different campuses with different histories and the buildings have their own funding histories. The O&M appropriated over the years has a lot of variability, but all agree on the need to develop a good standard for new space.

Kenneth Nye stated DFCM struggles in dealing with the O&M problem through new buildings versus as a general budget issue within the Higher Education system. New O&M money is only received when a new building is received as opposed to dealing with the reality of what the costs are for O&M on an ongoing year to year basis.

Joseph Jenkins stated that 1.1% was still allocated for capital improvement dollars; however, because of budget constraints it was temporarily decreased to .9%. The statute remains the same, but the .9% is expected to continue next year as well.

Chair Stepan sought a motion to put into the five year plan the list of requests.

**MOTION: Larry Jardine moved to place the list of requests in the five year plan.  
The motion was seconded by Haze Hunter and passed unanimously.**

**❑ SNOW COLLEGE MASTER PLAN.....**

President Michael Benson expressed his thanks to DFCM and commended Joseph Jenkins and his staff for their assistance in preparing the master plan. Gould Evans had assisted

with the architecture for the Performing Arts Center. He also thanked the Building Board for their support of this project as it will have a significant impact on their community. He invited everyone to visit their web site at [www.snow.edu](http://www.snow.edu) where there is a camera keeping progress of the construction on the Performing Arts Center which is expected to be completed by fall semester of next year.

President Benson identified the five buildings slated for demolition in the southwest corner of campus this summer, with the O&M funds being transferred from those buildings. The average age of the demolished building is over 60 years, including the social science building, the old President's home, the varsity house, the Crane theatre, the old gym and an LDS Church given to Snow College in 1993.

The challenge in doing the campus master plan really is two-fold as they begin the process. The first is to strengthen the natural campus spine that runs along the east-west axis. Second, is to plan ways to begin to appropriately fill the holes on the southwest corner of campus. Snow College has a chance to reshape campus in a way that is unique solely to Snow College. With those two challenges are two caveats. The first challenge can be addressed with relatively little money and almost immediately, which is currently occurring. The second challenge will require many more resources, both private and public, and a longer period of time. With regard to the first challenge, President Benson's ideal campus is the University of Virginia designed by Thomas Jefferson. At Snow, they have a unique opportunity to create this mall, which is very similar to what is seen in older campus. In the mall running east to west, there are three nodes. The first node encompasses the Carillon Tower which funds were donated for the tower fifteen years ago by Dr. Rasmussen. Dr. Rasmussen has been generous to give the College \$150,000 more to redo the plaza and make it more of a focal point. The College anticipates building the base of the tower up with brick and then placing the Carillon Tower on top. Snow College wishes to make the tower more of a focal point for the campus. Gould Evans is aiding with the design of the project and they intend to break ground in March of 2003.

Continuing west down the east-west axis is the Tanner Fountain which is another node. As the Performing Arts Center nears completion, there will be a third node that will go on the north side of the Performing Arts Center. The first challenge is currently being addressed in strengthening the spine along the east-west axis.

The parking lot located in the middle of the campus also somewhat disjoins the feel of the spine. The College is currently in discussion with UDOT, who is willing to give both College Avenue and Center Street to the City of Ephraim. The College can then put angled parking around the perimeter of campus to increase the parking capacity by approximately 30%. The College has had discussions with UDOT in the last few weeks and is finalizing discussions about the transfer of a snow plow.

Gould Evans also suggested a few helpful design guidelines. As is the case in a lot of campuses, buildings are built in different eras and often times they are a hodge-podge of architecture. There are some common threads the College can begin implementing in terms of fenestrations, building entrances, lighting, street furniture, crosswalks, etc. They intend to make some modifications in hopes of making the campus slightly more uniform.

The College is also currently in the process of working with DFCM to obtain money to redo existing space to place faculty temporarily while the other buildings are demolished.

Snow College has had three individuals agree to help them raise three million dollars over the next three months to build a new stadium. The current stadium built in 1965 is on the east side of campus which would be demolished and used for future academic building. Just north of campus, the City of Ephraim and Snow College partnered to develop a sports complex to house a future stadium on approximately sixty acres of property along as well as a practice facility. The College must receive approval from the Board of Regents, the Building Board and Legislature although it is private money. They hope to break ground next April in order to have the project done in time for next football season. A soccer field west of the tennis courts is also anticipated and desired.

President Benson stated the College did not include the Great Basin Environmental Education Center due to some outstanding issues about ownership of the property. They are in consultation with the Forest Service to determine if the property can be transferred solely to the College. As the College discussed ways to improve the perimeter around campus, they may use stamped concrete instead of raised crosswalks in order to make it more pedestrian friendly and safer for students to cross College Avenue and Center Street.

President Benson thanked Gould Evans and DFCM for their help in collaboration of the project. The City Council in Ephraim has also been very willing to work with the College as they implement some of the changes to make the campus more beautiful, accessible and safer for the students and for the community.

Joseph Jenkins felt it would be beneficial for the Board to accept the master plan of Snow College. Therefore, when institutions or agencies return with desires to do something different, they can refer to the master plan.

**MOTION: Manuel Torres moved to accept the Snow College master plan. The motion was seconded by Kerry Casady and passed unanimously.**

**☐ REPEAL OR AMENDMENT OF VARIOUS ADMINISTRATIVE RULES .....**



Joseph Jenkins stated the administrative rules that DFCM operates with that are under a five year cycle where they have to be evaluated and repealed, amended or carried on. There were several administrative rules at the five-year cycle and needed to be addressed. The Board determined to act on each rule individually as it was addressed. Included in the packet was text of existing rules proposed to be repealed, as well as text of amendments or new rules proposed.

R23-7 dealt with master planning. Upon reviewing the text, DFCM did not feel it fit into the current practices of state government. The current text of the rule required every state entity to have a master plan for every state building, both existing as well as contemplated. There are approximately 4000 existing state buildings, but granted quite a few of those are on campuses where they would be combined into a single master plan. It is not really feasible to have a master plan for every state facility, nor is it warranted. DFCM felt they should repeal the existing rule as the Board had another rule dealing with the planning of projects. Mr. Nye felt DFCM could return to a future Board meeting and propose amendments to that rule if the Board wished to deal with master plan issues and requiring them for major campuses. For the time being, DFCM did not feel the wording in the current rule dealt with the current aspects of DFCM dealing with master plans and therefore proposed to repeal the rule.

**MOTION: Manuel Torres moved to repeal R23-7 and request that DFCM present a proposal to replace the rule in the future. The motion was seconded by Haze Hunter.**

Kerry Casaday questioned the rule being adopted 15 years ago, but the policy was only partially implemented at the time. He asked if the policy was ever fully implemented. Kenneth Nye stated this was a policy that was in place before the State had administrative rules. He was unsure how old the policy was.

**The motion passed unanimously.**

Kenneth Nye proceeded with R23-11, dealing with the allocation of space and the procedures to be followed when selling property. Some statutes deal with the issue of both the allocation of space as well as the requirements for disposing of property. The role DFCM currently has is not entirely consistent with those statutes, but DFCM did not believe it added anything beyond what is provided for in the statute. The area where the current rule was not accurate is the allocation of space as an authority the Director of DFCM, and dealt with by the Building Board on an individual basis. This would imply that every decision about allocating space would have to be made by the Building Board and is always based on a master plan. However, many buildings DFCM deals with do not have master plans and do not warrant developing a master plan as far as a formal document.

The rule talks about a regular analysis of space efficiency in all state buildings, which is an old practice that is no longer in effect. Right now, developing a program to evaluate the efficiency of space in all state buildings is beyond DFCM's current budget capacity and DFCM deals with space efficiency in other ways.

Kenneth Nye stated Higher Education currently has a good process of monitoring the utilization of the Higher Education space and DFCM relies on that in their planning efforts. The repeal of this rule would not affect this process. Higher Education would continue to monitor their utilization efficiency and other agencies will be monitored through billings to DFCM. Generally, a reallocation of a building from one agency to another usually results from a new project being built.

Chair Stepan stated the current budget situation forced the need to do less with less. Individual agencies or departments would be responsible for maintaining a level of efficiency and then the DFCM Director is responsible for space efficiency. It will be monitored, but not in the formal way the current rule calls for.

Kenneth Nye stated that currently the statute provides for the authority of DFCM to monitor and allocate space within the agencies and he was unsure if there was a need to go beyond that regarding space utilization.

If this rule is repealed as proposed, then it would separate the authority clearly. DFCM would be responsible for the stewardship, instead of the Building Board.

**MOTION: Larry Jardine moved to repeal existing rule R23-11. The motion was seconded by Kerry Casaday and passed unanimously.**

Rule R23-4 dealt with the suspension or debarment of individuals performing work for the State, as well as a Contract Performance Review Committee that the Legislature authorized DFCM to create a few years ago. The proposed amendments were basically technical amendments for clarification. The substantive issues pertained to R23-4-3 which the first paragraph had been struck out as it addressed statute that changed some time ago. The rule previously inferred that construction was awarded always on a low bid basis and DFCM no longer does business in that manner and the statute this rule referred to has been repealed. Therefore, DFCM is updating the rule to bring it current to the current statute and practices. DFCM also added the definition of person and then referred to persons being debarred to make it clear DFCM can debar firms and individuals.

Alan Bachman stated it was a critical component in the rule to have, especially in hard economic times. Going through a suspension and debarment is a very intense proceeding.

Kenneth Nye stated the existing rule granted DFCM the ability to deal with individuals and firms in varying locations. This would develop a standard to deal with individuals throughout the rule, rather than the ambiguity that previously existed.

The other significant amendments dealt with the Contract Performance Review Committee. Paragraph seven indicated the existing rule currently requires that all three members be present for a quorum. The Committee could not take any action without all members being present and DFCM did not think that was necessary. It also required them to comply with the Open and Public Meetings laws. DFCM wanted to repeal the rule, as they did not want to imply they would always have public meetings for all deliberations.

It is DFCM's intent to have the Board approve the changes and allow DFCM to go through the rule making process.

**MOTION: Haze Hunter moved to accept the amendment to R23-4 as discussed. The motion was seconded by Manuel Torres and passed unanimously.**

Kenneth Nye continued with R23-10, Naming of State Buildings. This rule has had several interactions with legislative legal staff over the last couple of years due to their struggle on how to deal with the naming of buildings. One of the proposed amendments in this rule is R23-10-5, which acknowledges that the Legislature has the authority to name a building if they desire. The existing rule had language that was proposed to be stricken in section R23-10-3. It is primarily trying to identify specific entities holding title to property and would therefore be able to designate the name of a building. DFCM thought it would be simpler and easier to keep current with statute, if they determined whoever holds title has the ability to decide the name. On most state agencies buildings, the title is held by DFCM or the Building Ownership Authority, and in those cases the Building Board would have the authority to decide the name. Higher Education is exempted as they have always dealt with the naming of their buildings and have far more instances. This makes it clear that they have the ability to name their buildings as is consistent with the existing rule.

DFCM added R23-10-4, which addresses the process for the Building Board to approve a name. DFCM proposed that naming of buildings be divided into two categories. Those that are more of a descriptive name would not require Building Board action. Naming after an individual in an honorary way typically holds a desire to ensure the naming is appropriate and would require Board action. This was basically the practice of the Board in the past, but has never formally been put into a rule.

Chair Stepan stated it was a sensitive issue because of private funding. This would help to clarify current conditions.

**MOTION: Kerry Casaday moved to approve the amendment to rule R23-10. The motion was seconded by Haze Hunter and passed unanimously.**

Kenneth Nye proceeded with rule R23-9, Building Board State/Local Cooperation Policy. DFCM proposed the most significant change in policy in this rule. Under current statutes, the State is not subject to local planning and zoning requirements as any construction occurring on state owned property is exempt from those requirements. The current rule does not provide closure as to what happens with resolving concerns as DFCM does not exactly follow what the local government would require if the project were not on state property. DFCM felt there was such substantial revision needed, they proposed repealing the existing rule and replacing it with their own proposed text. This clearly define that all construction on state property is not subject to local planning and zoning as is consistent with the statute governing DFCM and construction on state property. It would clarify that exempting DFCM from the planning and zoning requirements did not mean that if a private business were to operate on state property, they would not be subject to the local business regulation requirements.

R23-9-4 is an amplification of the statutory requirement where it provides that the state is not subject to local planning and zoning, and also provides that DFCM must consider the input of planning and zoning. This provides for dialogue with the local government planning and zoning issues.

R23-9-5 is more of the policy change. Currently, the statutes governing impact fees do not explicitly state whether the State is subject to impact fees. DFCM has taken the position that the State is not subject to impact fees. There are a number of legal arguments for why they take that position including wording in the statute implying that and providing a good basis for the argument. This does not deal with impacts the overall capacity of utility systems.

DFCM proposed that, while they do not concede that they are subject to impact fees, they agreed to pay an amount equivalent to the impact fee for utility type issues only. Other impact fees for items such as roads, schools, parks and recreation would not be contributed to by DFCM. Through other funding mechanisms, the State already contributes substantially throughout the State for issues like public schools and DFCM did not feel the State would have to contribute further through an impact fee on those.

Joseph Jenkins stated in the past, DFCM has not paid impact fees on utilities at all. He felt where utilities were concerned DFCM did impact them and therefore should pay. Those that were not impacted should not be paid.

Larry Jardine asked if this would increase the cost of a building. Joseph Jenkins stated it

would increase, but the amount of the increase would depend on location. If the project is making an impact, it ought to be funded through the project. DFCM will ensure all utilities must break costs out if they receive remunerations. By law, the impact fee has to show there is a direct correlation on buildings and the further build out of their systems. DFCM feels that in good conscience, they ought to do that as part of the state. Upon Board approval, DFCM will make the negotiations up front to ensure appropriate impact fees are being paid.

Kenneth Nye stated the statute governing impact fees gives a fair amount of ammunition as far as requiring that it be appropriate for the situation.

Chair Stepan asked if the term public utility system was strong enough to cover the Board's desired limitations. Kenneth Nye stated the definitions borrowed heavily from the statute dealing with impact fees with minor modifications to fit DFCM's situation.

Alan Bachman favorably suggested the rule to allow DFCM to develop getting the impact fees resolved with the municipalities early on to allow for the best negotiations.

**MOTION: Haze Hunter moved to accept R23-9, Building Board State/Local Cooperation Policy.**

Kerry Casaday asked if there was statute associated with the administrative rule. Kenneth Nye responded that the statute did not require DFCM to pay at all, but DFCM felt they should pay an equivalent amount.

**MOTION: Haze Hunter amended his motion to repeal then re-enact R23-9, Building Board State/Local Cooperation Policy. The motion was seconded by Larry Jardine.**

Kerry Casaday noticed that by statute, agencies were not subject to those impact fees, however the rule states they would be paid in order to maintain a good relationship. He questioned if others could avoid paying utilities. Joseph Jenkins stated the utilities could also be denied deeming the need to have the rule in place in the beginning.

Alan Bachman added that the statute stated an impact fee is something a municipality collects at the time of obtaining the building permit. Mr. Bachman felt arguments could be made both ways regarding legislative intent, but DFCM felt the strongest argument is that the legislature exempted DFCM because they wished to make a vehicle they could assess at the time they consider land use approval. In his opinion, if there were no statute on impact fees, it would not prohibit DFCM from negotiating with a municipality to pay a fee for an impact an actual utility. He stated that in an ideal situation there would be a statutory

change, but he thought that absent that, this rule would be an improvement and would probably resolve most issues for the foreseeable future.

Chair Stepan stated that within the context of the discussion, he proposed changing the word shall to may to state, "When connecting to public utility systems only, the Division may..." This change would provide some flexibility without taking away from the statute.

Representative Pace expressed concern with the Legislature adding a new line item when the impact fees show up as building expenses on the list for the Legislature. She felt it would be beneficial to have discussions with their legal council on the issue in an attempt to make the Legislature aware.

**MOTION: Haze Hunter moved to amend the previous motion to repeal, then re-enact, R23-9, Building Board State/Local Cooperation Policy and make an exception to change the word from shall to may. The motion was seconded by Manuel Torres and passed unanimously.**

**❑ ADMINISTRATIVE REPORTS FOR THE UNIVERSITY OF UTAH AND UTAH STATE UNIVERSITY.....**

John Huish reported on the administrative report for the University of Utah for the period of October 18 to November 15, 2002. There was one A/E agreement for \$17,052 for the Lot 73 repair and refurbish. Construction contracts listed included a \$1.2 million project for the Nursing Buildings, fifth floor, for an extensive remodeling project. They also had to begin this project by initiating a contract with the American Asbestos Abatement for \$148,000.

The contingency reserve fund indicated projects initiated under the statewide improvement funds with a majority of the projects being for repairs and fire and life safety.

**MOTION: Haze Hunter moved to accept the University of Utah's administrative report. The motion was seconded by Larry Jardine and passed unanimously.**

Brent Windley reported on the administrative report for Utah State University for the period of October 16 to November 13, 2002. There were three new A/E contracts dealing with concrete testing and paving design and some electrical and mechanical upgrades. There was a small addition to the contingency reserve fund of approximately \$1,049.67.

The quarterly report was included and indicated the cumulative transfers for the quarter in the contingency fund. The quarterly state wide accounts indicated five contracts closed and 18 open contracts, including three new contracts.

Mr. Windley referred to the current delegated project list and most were finished or substantially complete.

The buildings on campus that are being built right now are proceeding from last month. On the Engineering Building, the steel erection and sheathing is all up, and the masonry has begun with the interior partitions beginning to be built. The Edith Bowen building is on time and on budget with the gymnasium walls intact and the roof beginning.

**MOTION: Larry Jardine moved to accept the administrative report of Utah State University. The motion was seconded by Manuel Torres and passed unanimously.**

**❑ ADMINISTRATIVE REPORTS FOR DFCM .....**

Kenneth Nye stated when DFCM reports on the administrative report, they are generally reporting on challenges arising on projects or leases that are more costly. Mr. Nye indicated the lease report, item four, identified a Human Services, Child and Family Services Shelter in Tooele. The State has been leasing this facility from a previous owner who agreed to lease it to the State at the low market rates as a sign of support of the battered women's shelter. The previous owner was leasing the office to the State at the below market rate at \$7.39/foot, which excluded all of the operations and maintenance costs incurred to Human Services. He lost the building in a bankruptcy so the Tooele Housing Authority purchased the building out of bankruptcy using financing from the Olene Walker Trust Fund. With that, they were then agreeable to reduce the lease rate even further to \$4.04/foot if the State would make a longer term commitment to add seven years on to the lease.

Kenneth Nye stated the contingency fund reported the transfers coming from the amounts that were budgeted for in the capital development projects. There are payments going out through the contingency for settlements they had previously discussed with the Board.

**❑ UPCOMING VALUE BASED PROCUREMENT SELECTIONS.....**

Joseph Jenkins noted the Soldier Hollow Golf Course Building had been rescheduled for December 10, 2002.

Keith Stepan will serve on the selection committee for the University of Utah Health Sciences Education Building Design on January 6, 2003.

**❑ ADJOURNMENT .....**

**MOTION: Manuel Torres moved to adjourn at 11:24am. The motion was seconded by Larry Jardine and passed unanimously.**

*Minutes prepared by: Shannon Lofgreen*